



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

AKERMAN SENTERFITT  
P O BOX 3188  
WEST PALM BEACH, FL 33402-3188

COPY MAILED

JUN 05 2006

OFFICE OF PETITIONS

In re Application of :  
Morgan Rey Benson et al : DECISION ON PETITION  
Application No. 09/940,164 : UNDER 37 CFR 1.137(b)  
Filed: August 27, 2001 :  
Attorney Docket No. DP-306072 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

The petition is granted.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2005. A Notice of Abandonment was mailed on September 21, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the \$1,400 issue fee and \$300 publication fee, the petition fee of \$1,500, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.


It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The revocation and power of attorney received April 18, 2006 is not acceptable since it fails to comply with the provisions of 37 CFR 3.73(b). Although the box is checked to indicate that a statement under 37 CFR 3.73(b) is enclosed, no such certification was found. Accordingly, in view of the nonacceptance of the revocation and power of attorney filed on April 18, 2006, a courtesy copy of this decision is being mailed to the below-listed address. However, all future correspondence will continue to be directed to the above-noted address of record until such time as an acceptable power of attorney has been filed.

There is no indication that petitioner has submitted Part B - Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, and **if this can be done without disrupting the printing process**, the attached Fee(s) Transmittal form should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or Fax to (703) 746-4000, within **ONE MONTH** from the mail date of this decision.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions

ATTACHMENT TO PETITIONER: Part B - Fee(s) Transmittal Form

cc:

Howard & Howard Attorneys PC  
The Pinehurst Office Center, Suite #101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax** **(703) 746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Use Block 1 for any change of address)

30448 7590 04/22/2005

**AKERMAN SENTERFITT**  
**P.O. BOX 3188**  
**WEST PALM BEACH, FL 33402-3188**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,164	08/27/2001	Morgan Rey Benson	DP-306072	4379

**TITLE OF INVENTION: BATTERY CONSTRUCTED WITH EXTRACTED BICELLS STACKED ON SHUTTLED PALLET**

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	07/22/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
WILLS, MONIQUE M	1746	429-161000

**1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).**

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

**2. For printing on the patent front page, list**

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	_____
2	_____
3	_____

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

**(A) NAME OF ASSIGNEE**

**(B) RESIDENCE: (CITY and STATE OR COUNTRY)**

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

**4a. The following fee(s) are enclosed:**

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

**4b. Payment of Fee(s):**

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

**5. Change in Entity Status (from status indicated above)**

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.